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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/256,643	02/23/1999	LEONARD FORBES	303.324US2	1086

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EXAMINER

TRINH, MICHAEL MANH

ART UNIT	PAPER NUMBER
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2822

DATE MAILED: 06/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/256,643

Applicant(s)

FORBES ET AL.

Examiner

Michael M Trinh

Art Unit

2822

--Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 May 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: of rejections and clear reasons of record. See attached paper.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.Claim(s) objected to: 33,47,62,67,70 and 75.Claim(s) rejected: 21,23,24,26,29-32,36-46,48-61,63-66,68,69 and 71-74.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Michael Trinh
Primary Examiner

Applicant's remarks filed May 17, 2002 have been fully considered but they are not persuasive.

** Applicant remarked that a prima facie case of obviousness has not been established in the Final office action.

In response, this is noted and found unconvincing. As of record, the combined references clearly established a prima facie case of obviousness.

Applicant cited a "recent Federal Circuit opinion, *In re Sang Su Lee*, 61 USPQ2d 1430 (Fed. Cir. 2002), specifically requires that "the suggestion or motivation to combine references 'be based on objective evidence of record...". Applicant then alleged that "The Final Office Action stated on page 2 that it would have been obvious 'to replace the polysilicon of Chamberlain with the gate of silicon carbide ...taught by Halvis...because of the desirability to improve response, to improve quantum efficiency, and to improve performance and light sensitivity'. The Final Office Action did not cite prior art in the record that support the above-stated motivation for combining Chamberlain and Halvis...."

In response, it is noted and found totally unconvincing. Halvis et al (5,369,040) expressly state (at col 2, lines 4-17) that "...this invention to described a photodetector...which has improved quantum efficiency...to provide a photodetector with improved response...", wherein "...improved performance with photodetectors...light...for improved sensitivity..." is expressly mentioned at column 1, lines 64-68. Chamberlain (4,473,836) teaches to form a photodetector comprising a polysilicon gate. Halvis discloses the prior art problem of using polysilicon gate in forming the photodetector (column 1). Halvis then teaches to use silicon carbide for forming the gate instead of using the polysilicon gate. Accordingly, the suggestion or motivation to combined the references are clearly of record and based on objective evidence of record, and met the requirement of the case law *In re Sang Su Lee*, 61 USPQ2d 1430 (Fed. Cir. 2002).

Herein the main reference of Chamberlain already teaches to use a polysilicon gate in forming the photodetector. Herein, the secondary reference of Halvis expressly teaches to replace the polysilicon gate with the polysilicon carbide gate.

Accordingly, the rejections are outstanding and maintained as of record.



Michael Trinh
Primary Examiner